

SAMPLE WHISTLEBLOWER RETALIATION COMPLAINT

NOTE: No individual who files a whistleblower retaliation complaint with the SPB is required to utilize the format set forth in the following sample complaint. Instead, it is provided for reference purposes only.

S A M P L E

WHISTLEBLOWER RETALIATION COMPLAINT

Employee's Name
Classification
Work Address
Home Address

I

NATURE OF THE COMPLAINT

I have been retaliated against in my employment as a [Job Title] with the [Appointing Power], at [Work-Site Address], as a result of my having reported improper governmental activities [OR, as a result of my having refused to obey an illegal order or directive] [OR, as a result of my having reported improper governmental activities and for having refused to obey an illegal order or directive]. The entity [And/Or Persons] that have retaliated against me are as follows: [Identify the appointing power, if applicable, as well as each individual employee, by name and job title, if applicable]

II

STATEMENT OF FACTS

[List in chronological or some other logical order, in consecutively numbered paragraphs, the following information: (1) the improper governmental activity you reported, or the illegal order or directive you refused to obey; (2) the date(s) you reported the improper governmental activity, or refused to obey the illegal order or directive; (3) the person(s) to whom you reported the improper governmental activity, or to whom you indicated you would not obey the illegal order or directive; (4) the improper personnel action(s) you experienced as a result of your complaint(s) of improper governmental activity, or refusal(s) to obey an illegal order or directive; (5) the date on which you experienced each improper personnel action; and (6) all information you possess that demonstrates each improper personnel action occurred as a result of your report(s) of improper governmental activity, or your refusal(s) to obey an illegal order or directive.]

For example:

1. Between April 1, 1998 and continuing through to the present day, I have been employed as an Associate Budget Analyst with the Department of Corrections (Department), at Corcoran State Prison (CSP), Corcoran , California. My duties in that capacity require me to, among other things, review and approve Travel Expense Claims (TEC), and review overtime usage.
2. Sometime between April 15, 2002 and May 2, 2002, I informed my immediate supervisor, Staff Services Manager I Arnold Palmer (Palmer), that Correctional Lieutenant Julie Inkster (Inkster) had submitted three separate TECs that contained fraudulent information. On one TEC, Inkster requested reimbursement for 250 miles travel in her private vehicle, even though she had traveled in a state vehicle. On the second TEC, Inkster claimed reimbursement for three days of per diem, but her trip had only lasted two days. On the third TEC, Inkster claimed reimbursement for payment for an off-site training course, but the Department had paid for the course, not Inkster. Palmer informed me that he would look into the matter, and get back to me.
3. On May 7, 2002, Inkster approached me and said, “Why are you trying to get me in trouble? I thought we were friends. No one, including you, is a saint. If you don’t drop this whole TEC thing, I’ll see to it that you live to regret trying to get me in trouble.”
4. On that same date, I reported this conversation to Palmer, but he only said that I shouldn’t take the threat seriously, because Inkster was just upset. When I asked what was being done about the false TECs, Palmer told me not to worry about it, and that the matter had been “handled.”

5. On June 10, 2002, I informed Palmer that Correctional Officer Sam Snead (Snead) had, on May 15, 2002, claimed four hours of overtime, even though he had only worked one hour of overtime on that date. Palmer informed me that he would look into the matter, and get back to me.
6. Having heard nothing from Palmer regarding the Snead matter, on July 6, 2002, I contacted his immediate supervisor, Staff Services Manager II Nancy Lopez (Lopez) and told her what I had earlier reported to Palmer. Lopez said she was unaware of the situation, and she would look into it and get back to me within the week. I also asked her what had ever happened about Inkster's false TECs, but Lopez told me that she knew nothing about that situation either.
7. On July 8, 2002, Palmer called me into his office. After I entered, he closed the office door and, in an angry manner, accused me of "going behind his back" to Lopez about Inkster and Snead. When I said that I was just trying to follow-up on those matters because he had never told me what had occurred, he yelled that I was not a "team player," that "everything was working out fine until I opened my big mouth," and that I had "needlessly gotten two good people in serious trouble over simple mistakes that anyone could have made." When I told him that I was just doing my job, he said, "We'll just see how long you have a job to do," and then told me to "get the hell out of his office."
8. On that same date, I told Lopez what Palmer had said. Lopez told me she was going to refer the matter to Warden Greg Kite (Kite).
9. On July 9, 2002, Inkster telephoned me at my home and told me that she was going to do everything in her power to see that I was fired.

10. On August 2, 2002, Palmer called me into his office and gave me a written counseling memorandum, which indicated that I had not been processing my assignments in a timely manner, but it did not provide any specifics. The memorandum also stated that I would be disciplined if my performance did not improve. The memorandum further indicated that Palmer would no longer permit me to work a modified work schedule, where I was permitted to arrive at work 10 to 15 minutes past my regularly scheduled start time (provided I made up the time at the end of the day) in order to accommodate my child's day care schedule. (A copy of the memorandum is attached.)

11. I refused to sign the counseling memorandum, because the accusations concerning my work performance were patently false. I have consistently received above-average to outstanding performance evaluations, and my most recent performance evaluation for 2001 rated me as "outstanding" overall. (Copies of my Performance Evaluations for 1997, 1998, 1999, 2000, and 2001 are attached.)

12. On that same date, I complained to Lopez about Palmer's actions. Once again, she told me that she would refer the matter to Warden Kite.

13. Shortly after this incident, I began to experience a great deal of emotional trauma as a result of Palmer's and Inkster's actions, and Lopez's inaction. Because of this, I sought treatment from a psychologist through my Health Care Provider. (See Evaluations of Tiger Woods (Woods), Ph.D., dated August 5, 15, September 7, 14, and October 1, 15, 2002.) My relationship with my friends and family also began to suffer due to the emotional distress I was experiencing as a result of the improper actions directed toward me. (See sworn declarations of my husband Johnny Miller (Miller) and co-worker/friend Anikka Sorenstam (Sorenstam), attached.)

14. On September 5, 2002, Palmer gave me an early performance evaluation for 2002, where I was rated as “standard” and “needs improvement.” His stated reasons for downgrading my evaluation was because I was not completing my assignments in a timely manner, refused to accept instruction, and was regularly late for work. He also told me that my merit salary increase had been denied due to my poor performance. (A copy of the 2002 Performance Evaluation, and the denial of my merit salary increase, are attached.)

15. As I left Palmer’s office, Inkster was standing outside. As I walked past her, she said, “See what happens when you try to screw around with other people’s lives.”

16. It is my belief that Palmer, in collusion with Inkster, retaliated against me because I reported Inkster’s fraudulent TECs to Lopez. That retaliation included:

- (A) Inkster’s verbal threats to me. (See paragraphs 3, 9 and 15.)
- (B) Palmer’s verbal threats to me. (See paragraphs 7, 10 and 14.)
- (C) The counseling memorandum I received from Palmer containing false allegations about my job performance. (See Paragraph 10.)
- (C) Palmer’s discontinuance of my modified work schedule. (See Paragraph 10.)
- (E) The unfavorable early performance evaluation I received from Palmer. (See Paragraph 14.)
- (F) The denial of my merit salary increase for 2002. (See Paragraph 14.)

17. It is also my belief that Lopez approved of the above-listed retaliatory acts because she failed to take any action to correct these threats and improper personnel actions, even though I had specifically informed her of those improper actions.

III DAMAGES AND RELIEF REQUESTED

You must specify all damages and relief you are seeking (e.g., backpay, benefits, transfer, promotion, reinstatement, emotional distress).

For example:

1. I am requesting that my merit salary increase for 2002 be approved, and that I receive all additional money I would have received, plus interest, from the date of denial until the present.
2. I am requesting that I be transferred to an Associate Budget Analyst position at the Substance Abuse Treatment Facility, Corcoran, California.
3. I am requesting that the counseling memorandum referenced in Section II, Paragraph 10, be expunged from all Department records and files.
4. I am requesting that the 2002 Performance Appraisal referenced in Section II, Paragraph 14, be expunged from all Department records and files.
5. I am requesting that I again be permitted to work a modified work schedule to accommodate my child's day care schedule, as referenced in Section II, Paragraph 10.
6. I am requesting \$25,000.00 in emotional distress damages as a result of the stress, anxiety, and depression that I experienced as a result of the above-listed retaliatory actions.

IV DISCIPLINARY ACTION REQUESTED

If you wish disciplinary action to be taken against any individual, you must specifically identify that individual, and clearly state the facts constituting the cause or causes for adverse action in such detail as is reasonably necessary to enable the accused employee to prepare a defense to those allegations. You should also indicate what specific discipline you want imposed on each such individual, and you must include the business address of each individual.

(1) I am requesting that disciplinary action be taken against Staff Services Manager I Arnold Palmer, for those reasons set forth in Section II, Paragraph 16. Palmer should be terminated because of the abusive and threatening manner in which he treats subordinate employees who are just trying to do their jobs. His business address is: [List business address].

(2) I am requesting that disciplinary action be taken against Correctional Lieutenant Julie Inkster for those reasons set forth in Section II, Paragraph 16. Inkster should be demoted to a non-supervisory position because she cannot be trusted to perform the duties of a supervisor. Her business address is: [List business address].

(3) I am requesting that disciplinary action be taken against Staff Services Manager II Nancy Lopez, for those reasons set forth in Section II, Paragraph 17. Lopez should be suspended for 30 days due to her failure to stop the retaliatory actions that she knew were being directed at me. Her business address is; [List business address].

**V.
SWORN STATEMENT**

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge and belief.

Dated: _____

Name
Title

Enclosures: List of Supporting Materials, with supporting materials

LIST OF SUPPORTING MATERIALS

You must include as attachments all documents in your possession, custody, or control that support your contention that you have been retaliated against as a result of your having reported improper governmental activities, or for your having refused to obey an illegal order or directive.

1. *[Brief description of each attachment]*